

December 10, 1974

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CONGRESSIONAL RECORD — SENATE

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ucts obtained from the United States by hard currency but, rather, from Russian products in a barter deal?

Secretary KISSINGER. My impression is they will pay for it by currency.

Senator BYRD. Does the waiver in the Jackson compromise apply to all Communist nations or only to Russia?

Secretary KISSINGER. It applies to all non-market economies, in other words, to all Communist nations.

I mean the right to waiver applies to all of them, but it will have to be exercised in each individual case separately.

Senator BYRD. But the right to waiver in the compromise applies to all Communist nations?

Secretary KISSINGER. That is right.

Senator BYRD. Including, I think you said this morning, China?

Secretary KISSINGER. That is right.

Senator BYRD. Senator Buckley has recently suggested that an ad hoc congressional committee be formed to monitor Soviet behavior to see if the agreement is breached.

Would you favor or oppose such an ad hoc congressional committee?

Secretary KISSINGER. Will you repeat the question, please?

Senator BYRD. Yes.

Senator Buckley has suggested that an ad hoc congressional committee be formed to monitor Soviet behavior to see if the agreement is breached. Would you favor or oppose an ad hoc congressional committee?

Secretary KISSINGER. I have not thought this through, but my understanding would be to be opposed to it because I am very much afraid systematic intrusion in what is defined by the Soviet Union as a domestic jurisdiction is likely to have a counterproductive consequence.

If I change my mind on this, I will let you know.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNITY SERVICES ACT OF 1974

Mr. ROBERT C. BYRD, Mr. President, with the understanding that the bill will be laid temporarily aside until no later than the hour of 1 p.m. today, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 14449.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14449) to provide for the mobilization of community development and assistance service and to establish a Community Action Administration in the Department of Health, Education, and Welfare to administer such programs.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD, Mr. President, I suggest the absence of a quorum. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. ROBERT C. BYRD, Mr. President, I know this will come with some disappointment to the occupant of the chair, but I ask unanimous consent that the Senate stand in recess until the hour of 1 o'clock p.m. today.

There being no objection, the Senate, at 12:31 p.m., recessed until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MONTROYA).

SUPPLEMENTAL APPROPRIATIONS, 1975—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the supplemental appropriations conference report, which will be stated by title.

The assistant legislative clerk read as follows:

The report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 11, 39, 43, 44, 53, 66, and 85.

The amendments are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered eleven to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

Labor-Management Services Administration Salaries and Expenses

For an additional amount for the Labor-Management Services Administration, Salaries and expenses, \$8,150,000, including \$1,500,000 to be derived by transfer from Manpower Administration, Program Administration.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered thirty-nine to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

ADMINISTRATIVE PROVISION

Hereafter, with the approval of the Joint Committee on the Library, the Architect of the Capitol may utilize personnel paid from appropriations under his control for performance of administrative and clerical duties in connection with the maintenance and operation of the United States Botanic Garden, to such extent as he may deem feasible.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered forty-three to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: \$25,500,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered forty-four to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: \$9,150,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered fifty-three to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: \$25,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered sixty-six to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

Provided, That the aggregate salaries of all employees detailed on a nonreimbursable basis under the authority of the Presidential Transition Act of 1963, during the period beginning with the enactment of this Act, and ending February 9, 1975, shall not exceed \$70,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered eighty-five to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed to be inserted by said amendment, insert:

Sec. 205. None of the funds appropriated by this or any other Act which are available during the fiscal year 1975 for travel expenses, including subsistence allowances, of Government officers and employees may be obligated after the date of the enactment of this Act, at a rate for the balance of the fiscal year which exceeds 90 percent of the budget estimates for fiscal year 1975 for such expenses which were submitted for appropriations or otherwise provided by law: Provided, That none of the limitations on travel included in the regular appropriations for fiscal year 1975 shall be exceeded.

Mr. ALLEN. Mr. President, reserving the right to object, that leaves only amendment No. 17?

Mr. McCLELLAN. Amendment No. 17 is not included in this motion. This does constitute all the amendments pending except amendment 17. This will clean the slate, so to speak, as to amendment No. 17, which is subject to debate.

Mr. ALLEN. I have no objection to agreeing to amendment No. 17. I understand that an effort is going to be made to amend the motion of the Senator from Arkansas to concur as to No. 17.

Mr. McCLELLAN. As to 17—I understand. But this particular motion does not include 17. All other amendments are included.

Mr. President, amendment 85, which is in disagreement, is the compromise reached with the House on the Roth amendment, the cutback passed in the Senate on travel expenses for the fiscal year 1975. The conferees were sympathetic to the original proposal but because of many problems and difficulties in administering it and at the same time still maintain essential functions, it became apparent that many exceptions would have to be made under the original proposal. These were considered, but because of the required effort to reach and anticipate all problem areas, the conferees decided to accept the House amendment with no exemption. This amendment as now written would require about a five percent reduction for the balance of the fiscal year. The conferees also discussed the necessity to check further into the travel costs as we

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continue with our work in the Appropriations Committee.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas.

The motion was agreed to.

Mr. MAGNUSON. Mr. President, I shall make only a few brief remarks to further elaborate upon the very adequate explanation that the chairman of the full Appropriations Committee, Senator McCLELLAN, made yesterday.

The total appropriations allowed in conference for chapter II of the fiscal year 1975 supplemental appropriations bill for the Departments of Labor and Health, Education, and Welfare, and related agencies is \$5.8 billion. This sum is

\$420 million above the budget estimates, \$15 million under the total sum recommended by the Senate, and \$58 million above the amount allowed by the House.

Mr. President, I ask unanimous consent to place in the RECORD a table showing the comparative figures in detail.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

*Current Status of Chapter II of the 1975 Supplemental*

DEPARTMENT OF LABOR—HEW

Budget estimates	\$5,421,460,000
Amount in House bill	5,706,800,000
Amount in Senate bill	5,856,042,000
Conference agreement	5,840,542,000
Over the budget request	+419,073,000

Over the House bill	+ \$133,742,000
Under the Senate bill	-15,500,000

CONFERENCE CHANGES FROM THE BUDGET ESTIMATES

Labor programs	- \$2,520,000
Health services	-3,000,000
Health resources	+676,000
Elementary and secondary education	-32,143,000
Impact aid	+315,716,000
Education for the handicapped	+102,500,000
Occupational vocational and adult education	+10,162,000
Library resources	+5,000,000
Salaries and expenses	-718,000
Nutrition for the elderly	+25,400,000
Youth development	-2,000,000
	+419,073,000

Agency and item (1)	Budget estimate (2)	Recommended in House bill (3)	Recommended in Senate bill (4)	Conference agreement (5)	Increase (+) or decrease (-), conference bill compared with—			
					Budget estimate (6)	House bill (7)	Senate bill (8)	
CHAPTER II								
DEPARTMENT OF LABOR								
Manpower Administration								
Program administration.....		Not considered	-\$1,500,000				+\$1,500,000	
Comprehensive manpower assistance (by transfer).....		Not considered	(-\$5,600,000)				(+\$5,600,000)	
Labor-Management Services Administration								
Salaries and expenses.....	\$9,650,000	Not considered	6,150,000	\$6,650,000	-\$3,000,000	+\$6,650,000	+500,000	
(By transfer).....				(1,500,000)	(+1,500,000)	(+1,500,000)	(+1,500,000)	
Employment Standards Administration								
Salaries and expenses.....		Not considered	480,000	480,000	+480,000	+480,000		
(By transfer).....	(6,800,000)		(5,600,000)	(5,600,000)	(-1,200,000)	(+5,600,000)		
Bureau of Labor Statistics								
Salaries and expenses (by transfer).....	(600,000)	Not considered	(300,000)	(300,000)	(-300,000)	(+300,000)		
Departmental Management								
Salaries and expenses (by transfer).....		Not considered	(-300,000)		(+300,000)		(+300,000)	
Total, Department of Labor.....	9,650,000		5,130,000	7,130,000	-2,520,000	+7,130,000	+2,000,000	
(By transfer).....	(7,400,000)		(5,900,000)	(7,400,000)		(+7,400,000)	(+1,500,000)	
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Health Services Administration								
Health services.....	5,722,000	3,722,000	1,722,000	2,722,000	-3,000,000	-1,000,000	+1,000,000	
Alcohol, Drug Abuse, and Mental Health Administration								
Saint Elizabeths Hospital.....	1,789,000	1,789,000	1,789,000	1,789,000				
Health Resources Administration								
Health resources:								
1. National health statistics.....	24,000,000	21,511,000	21,511,000	21,511,000	-2,489,000			
2. Health services research and evaluations:								
(a) Grants and contracts.....	40,800,000	39,705,000	34,705,000	34,705,000	-6,095,000	-5,000,000		
(b) Research training.....	1,200,000	1,200,000	1,200,000	1,200,000				
3. Health manpower:								
(a) Health professions student loans.....	30,000,000	33,200,000	36,000,000	36,000,000	+6,000,000	+2,800,000		
(b) National health service scholarships.....	22,500,000	21,500,000	22,500,000	22,500,000		+1,000,000		
(c) Nursing student loans.....	18,000,000	21,800,000	22,800,000	22,800,000	+4,800,000	+1,000,000		
(d) Program management.....	10,757,000	10,217,000	9,217,000	9,217,000	-1,540,000	-1,000,000		
Total.....	147,257,000	149,133,000	147,933,000	147,933,000	+676,000	-1,200,000		
OFFICE OF EDUCATION								
Elementary and Secondary Education								
1. Grants for the disadvantaged (title I).....	1,885,000,000	1,876,000,000	1,876,000,000	1,876,000,000	-9,000,000			
Advance appropriation.....	1,900,000,000	1,900,000,000	1,900,000,000	1,900,000,000				
2. Supplementary services.....	146,393,000	125,000,000	120,000,000	120,000,000	-26,393,000	-5,000,000		
3. Strengthening State departments of education.....	39,425,000	39,425,000	39,425,000	39,425,000				
4. Bilingual education.....	70,000,000	70,000,000	90,000,000	85,000,000	+15,000,000	+15,000,000	-5,000,000	
5. Civil rights advisory services.....	5,000,000	5,000,000	5,000,000	5,000,000				
6. Equipment and minor remodeling.....	28,500,000	15,000,000	28,500,000	21,750,000	-6,750,000	+6,750,000	-6,750,000	
7. Nutrition and health.....	1,900,000		1,900,000	900,000	-1,000,000	+900,000	-1,000,000	
8. Dropout prevention.....	4,000,000				-4,000,000			
9. Support and innovation grants (advance appropriation).....	172,888,000	172,888,000	152,888,000	172,888,000			+20,000,000	
10. Libraries and instructional resources (advance appropriation).....	137,330,000	137,330,000	137,330,000	137,330,000				
Total, fiscal year 1975 appropriations.....	2,180,218,000	2,054,425,000	2,160,825,000	2,148,075,000	-32,143,000	+93,650,000	-12,750,000	
Total, fiscal year 1976 appropriations.....	2,210,218,000	2,210,218,000	2,190,218,000	2,210,218,000			+20,000,000	
School Assistance in Federally Affected Areas								
1. Maintenance and operations:								
(a) Payments for "A" children.....	223,900,000	223,900,000	223,900,000	223,900,000				
(b) Payments for "B" children.....	38,900,000	354,616,000	354,616,000	354,616,000	+315,716,000			
(c) Special provisions.....	14,500,000	14,500,000	14,500,000	14,500,000				
(d) Payments to other Federal agencies.....	43,000,000	43,000,000	43,000,000	43,000,000				

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Agency and Item (1)	Budget estimate (2)	Recommended in House bill (3)	Recommended in Senate bill (4)	Conference agreement (5)	Increase (+) or decrease (-), conference bill compared with—		
					Budget estimate (6)	House bill (7)	Senate bill (8)
2. Construction.....	\$20,000,000	\$20,000,000	\$20,000,000	\$20,000,000			
Total.....	340,300,000	656,016,000	656,016,000	656,016,000	+ \$315,716,000		
Education for the Handicapped							
1. State grant program.....	47,500,000	85,000,000	125,000,000	100,000,000	+52,500,000	-\$15,000,000	-\$25,000,000
2. Special target programs.....	50,000,000	100,000,000	100,000,000	100,000,000	+50,000,000		
(a) Deaf-blind centers.....	12,000,000	12,000,000	12,000,000	12,000,000			
(b) Early childhood projects.....	14,000,000	14,000,000	14,000,000	14,000,000			
(c) Specific learning disabilities.....	3,250,000	3,250,000	3,250,000	3,250,000			
(d) Regional resource centers.....	9,243,000	9,243,000	9,243,000	9,243,000			
3. Innovation and development.....	9,916,000	9,916,000	9,916,000	9,916,000			
4. Technology and communication.....							
(a) Media services and captioned films.....	13,000,000	13,000,000	13,000,000	13,000,000			
(b) Recruitment and information.....	500,000	500,000	500,000	500,000			
5. Special education manpower development.....	37,700,000	37,700,000	37,700,000	37,700,000			
Total, fiscal year 1975 appropriations.....	147,109,000	184,609,000	224,609,000	199,609,000	+52,500,000	+15,000,000	-25,000,000
Total, fiscal year 1976 appropriations.....	50,000,000	100,000,000	100,000,000	100,000,000	+50,000,000		
Occupational, Vocational, and Adult Education							
1. Adult education—grants to States.....	63,319,000	63,319,000	67,500,000	67,500,000	+4,181,000	+4,181,000	
Advance appropriation for 1976.....	63,319,000	63,319,000	67,500,000	67,500,000	+4,181,000	+4,181,000	
2. Ethnic heritage studies.....			1,800,000	1,800,000	+1,800,000	+1,800,000	
Total, fiscal year 1975 appropriations.....	63,319,000	63,319,000	69,300,000	69,300,000	+5,981,000	+5,981,000	
Total, fiscal year 1976 appropriations.....	63,319,000	63,319,000	67,500,000	67,500,000	+4,181,000	+4,181,000	
Library Resources							
School libraries.....	90,250,000	95,250,000	95,250,000	95,250,000	+5,000,000		
Salaries and expenses.....	718,000		750,000		-718,000		-750,000
Social Security Administration							
Limitation on salaries and expenses.....	(20,242,000)	Not considered			(-20,242,000)		
Human Development							
1. Nutrition programs for the elderly.....	99,600,000	125,000,000	125,000,000	125,000,000	+25,400,000		
2. Youth development.....	12,000,000	Not considered	10,000,000	10,000,000	-2,000,000	+10,000,000	
Total.....	111,600,000	125,000,000	135,000,000	135,000,000	+23,400,000	+10,000,000	
Total, Department of Health, Education, and Welfare.....	5,411,819,000	5,706,800,000	5,850,912,000	5,833,412,000	+421,593,000	+126,612,000	-17,500,000
Consisting of:							
Appropriations for fiscal year 1975.....	3,088,282,000	3,333,263,000	3,493,194,000	3,455,694,000	+367,412,000	+122,431,000	-37,500,000
Appropriations for fiscal year 1976.....	2,323,537,000	2,373,537,000	2,357,718,000	2,377,718,000	+54,181,000	+4,181,000	+20,000,000
Total, Chapter II.....	5,421,469,000	5,706,800,000	5,856,042,000	5,840,542,000	+419,073,000	+133,742,000	-15,500,000

Mr. MAGNUSON. Mr. President, the total amount of the Labor-HEW chapter is very large this year because a number of the education programs were not authorized at the time we were considering the regular Labor-HEW bill. Because we had to wait for the action of the authorizing committees, it was necessary to postpone the funding of these programs until this supplemental appropriations bill. I would also like to point out that almost half of the funds included in the supplemental will be used for the 1975-76 school year. Out of the total \$5.8 billion in the Labor-HEW chapter, \$2.4 billion represents advance appropriations for fiscal year 1976. This is a major initiative in advance funding. The rationale for including these funds in a 1975 appropriations bill instead of a 1976 appropriations bill is that the States and localities will be given more lead time to plan for the use of these school funds. The committee is very hopeful that this action will result in more benefit for each Federal dollar invested.

In the Department of Labor, the administration made an unusual proposal to create a number of minor adjustments, and the committee and the conferees generally agreed with the thrust of these amendments, which would basically begin to implement the new and expanded pension reform legislation as well as increase funding to strengthen the laws prohibiting job discrimination

against the handicapped. The conferees also agreed to an amount of \$480,000 to reduce the backlog of compensation claims for injured Federal workers.

In the area of health the conferees agreed with the Senate in providing increased educational opportunities for students at medical, dental, nursing, and related schools.

The principal areas of difference between the House and Senate bills involve education programs. Here the Senate conferees were successful in sustaining significant increases in the areas of bilingual education, school equipment and minor remodeling, and education for nutrition and health. The Senate conferees were also successful in sustaining a significant increase for the State grant program assisting in the education for the handicapped. Other Senate increases sustained in conference included grants to States for adult education and ethnic heritage studies.

Mr. President, in closing, let me state that I thought that chapter II of the Senate bill was significant in approaching the problem of funding school programs too late. The conference report before you today provides an amount that should be very helpful, especially in the area of education. The amounts provided for some items are not entirely to my satisfaction or the satisfaction of the Senate conferees. Nevertheless, I believe that there will be adequate funds to meet

the necessary supplemental expenses for the Department of Labor and HEW for fiscal year 1975.

#### HANDICAPPED CHILDREN INFORMATION PLAN

On a related matter, Mr. President, the Congress, in this bill, has provided a substantial increase for education services to handicapped children. However, all the money in the world will not help if we cannot get information on materials and services available out to the parents and children. The committee would expect HEW to come up with a plan for getting this information out on a timely and effective basis. Next year's budget hearings would be an appropriate forum for discussing the Department's plans.

The PRESIDING OFFICER. The clerk will report the amendment in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

#### "ELEMENTARY AND SECONDARY EDUCATION

"For carrying out, to the extent not otherwise provided, title I Part A (\$3,702,762,000) Part B (\$30,538,000) and Part C (\$30,000,000), title III (\$120,000,000), title IV, Part B (\$137,330,000) and Part C (\$172,888,000), title V, Parts A and C (\$39,425,000), title VII

and sec. 808 of the Elementary and Secondary Education Act, Part J of the Vocational Education Act of 1963, section 822 and section 823 (\$200,000) of Public Law 93-380, section 417(a) (2) of the General Education Provisions Act, title IV of the Civil Rights Act of 1964 and title III-A (\$21,750,000) of the National Defense Education Act of 1958, \$4,350,203,000; *Provided*, That of the amounts appropriated above the following amounts shall become available for obligation on July 1, 1975, and shall remain available until June 30, 1976: title I, Part A (\$1,882,212,000) Part B (\$16,538,000) and title IV, Part B (\$137,380,000) and Part C (\$172,888,000) of the Elementary and Secondary Education Act, and section 417(a) (2) of the General Education Provisions Act (\$1,250,000); *Provided further*, That the Commonwealth of Puerto Rico shall receive grants for the current fiscal year pursuant to sections 121, 122, and 123 of the Elementary and Secondary Education Act of 1965 (as such Act exists on the date of enactment of this Act) in amounts equal to not less than the amounts received by the Commonwealth of Puerto Rico for the fiscal year ending June 30, 1974, pursuant to sections 103(a) (5), 103(a) (6), and 103(a) (7), respectively of the Elementary and Secondary Education Act of 1965 (as such Act existed immediately before the effective date of the amendments made to title I of such Act by the Education Amendments of 1974): *Provided further*, That none of these funds shall be used to compel any school system as a condition for receiving grants and other benefits from the appropriations above, to classify teachers or students by race, religion, sex, or national origin, or to assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin."

Mr. McCLELLAN. Mr. President, I move that the Senate concur in amendment No. 17.

Mr. ROBERT C. BYRD. Mr. President, on behalf of other Senators, I will have to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that the privilege of the floor may be accorded to Patricia Shakow and Charles Warren, of my office, during the consideration of this conference report on supplemental appropriations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, in due course, the leadership—that is, on both sides of the aisle—will offer an amendment to the amendment which is in disagreement, which will then, if adopted by the Senate, go back to the House as an amendment with an amendment, asking for the concurrence of the House.

The Senator from Massachusetts (Mr. BROOKE) has carefully and in detail pointed out that the language of the conference report on the so-called Holt amendment would virtually nullify title VI of the Civil Rights Act of 1964, for which so many of us expended so much effort and energy, and which was one of the great achievements in the interest of validating the Constitution of the United States; that it would nullify title VI of this landmark Civil Rights Act by re-

stricting the power of the Department of Health, Education, and Welfare to obtain what is essential in the way of information in order to enforce the various unconstitutional discrimination provisions which are built into this law.

If schools cannot be required to classify students and teachers according to race, sex, or national origin, it will be impossible to obtain the basis for any case or to show any pattern or practice, except on the tedious case-by-case method which has been so ineffective in civil rights enforcement generally and which itself brought on the Civil Rights Act of 1964.

The Federal Government, obviously, cannot justify withholding funds for failure to overcome segregation, even if it is segregation on the grounds of sex, leave out the highly controverted and deep American question of color and race, unless it can prove a case, and it certainly cannot prove any kind of generic case, and that is the way these cases develop, unless some such records are kept. It hits programs quite separate and apart from, indeed, remote from, the questions of race and color, because we have the sex problem, which is very widespread, is a major issue in our country, and is dealt with by the Civil Rights Act of 1964.

We have, for example, the problem of bilingual education, where we have just materially increased the amount of the appropriation, because we believe so deeply that those who are Spanish speaking, mainly, should be brought into the great area of American life through having enough stimulation in instruction to gain competence in both languages.

Mr. President, what I think is more important than anything else is to make it clear that we are not voting on a busing amendment, either pro or antibusing. All that we are trying to do, Mr. President, is retain a basis for evidence which is very neatly destroyed if this amendment should remain in the conference report and be agreed on as part of this measure.

Mr. President, there have been some implications that the President of the United States might consider vetoing this bill on the ground that it is a little more money than he would like. I hope he does not do that on a money ground. But, Mr. President, should this amendment be found in the bill that goes to the President, I do not think there is any question about the fact that any President who believes in the Constitution of the United States would be duty bound to veto it, and I hope very much that the President will, notwithstanding the tremendous difficulty it would cause in many directions. We can avoid that, Mr. President, by adopting a course of action recommended by the leadership, to be presented by Senator SCOTT, which we have adopted in other areas, making it clear that we do not seek to invalidate the Constitution. I hope very much that the Senate will go that route in order to do justice, sustain the Constitution, and save this bill.

Mr. HUGH SCOTT. Mr. President, on behalf of myself and the distinguished majority leader and Senator from Mon-

tana (Mr. MANSFIELD), I move to concur in the amendment of the House to the amendment of the Senate, with an amendment, as follows, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of amendment numbered 17 in disagreement, strike the period, insert a comma in lieu thereof, and add the following: "except as may be necessary to enforce nondiscrimination provisions of Federal law".

Mr. HUGH SCOTT. Mr. President, this is an amendment to the so-called Holt amendment, which will insure that HEW retains its authority to enforce title VI of the 1964 Civil Rights Act and title IX of the Education Amendments of 1972. Without our amendment, 10 years of work to eliminate discrimination in American life will have been undermined.

The Holt amendment would prohibit the Federal Government from requiring the classification or assignment of teachers or students on the basis of race, religion, sex, or national origin, and the reporting of such information to HEW. Secretary of Health, Education, and Welfare Caspar Weinberger has clearly recognized the dangers in this amendment by stating in a letter to Senator MAGNUSON on December 2, 1974, that although the effect of the language might be ambiguous, in HEW's view "most courts would hold that the amendment ends our basic authority to enforce civil rights laws." The Secretary in his letter, a copy of which has been sent to each Senator, urges us to change this amendment.

I should point out to the Senate that the Holt amendment was considered by us in late November and turned down by a vote of 43 to 37. We are now confronted with substantially the same language on this conference report. The Scott-Mansfield amendment does not attempt to strike out the Holt amendment but seeks to clarify the congressional intent that all Federal antidiscrimination laws are to be enforced. This is a minimum commitment to equal justice under the Constitution which we all should support.

Finally, I should point out that this is not really a busing question, but one that deals with the enforcement of our basic civil rights laws against discrimination. I urge my colleagues to support this amendment which is absolutely essential.

I also offer, and ask unanimous consent to have printed in the Record at this point, a letter sent on December 6 to our colleagues by Senator MANSFIELD and myself.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. SENATE,

Washington, D.C., December 6, 1974.

DEAR COLLEAGUE: Next week, the Senate will vote on the Conference Report on the Supplemental Appropriations bill. This measure contains language originally proposed by Rep. Holt and adopted by the House which could, in effect, repeal the 1964 Civil Rights Act with regard to education.

The amendment does not really deal with busing and regardless of your feelings on that issue it would be extremely unwise to take

any action which might nullify Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 which forbid Federal payments to schools and colleges discriminating on the basis of race, religion, sex or national origin. The language of the Conference Report would prohibit the Federal government from requiring the classification or assignment of teachers or students on the basis of any of these categories, and the reporting of such information to HEW. As Secretary of HEW Weinberger has stated, without such data, the Department would be unable to make key decisions as to where Title VI and Title IX actions might be needed.

With the full support of the Administration, we have offered an amendment to this provision which would clarify our intent that all Federal anti-discrimination laws are to be enforced while still retaining the Holt amendment's admonition to HEW not to unduly harass schools and colleges. We believe it would be tragic to make such a sweeping repeal of landmark civil rights legislation on an appropriation bill, without any committee consideration, and we urge you to support our amendment next week. Attached is a copy of Sec. Weinberger's letter opposing the amendment.

Sincerely,

MIKE MANSFIELD,  
Majority Leader.  
HUGH SCOTT,  
Republican Leader.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that a letter from the Assistant Attorney General, Vincent Rakestraw, supporting the Scott-Mansfield amendment to the supplemental appropriations bill, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

DEPARTMENT OF JUSTICE,  
Washington, D.C., December 10, 1974.

HON. JAMES O. EASTLAND,  
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter concerns H.R. 16900, a supplemental appropriations bill for fiscal year 1975 which affects, among other portions of the Executive branch, the Department of Health, Education, and Welfare. This bill has been submitted by a committee of conference. The bill presently contains a provision of particular interest to the Department of Justice, with respect to both our responsibilities and those of the federal courts. For this reason, I have written this letter and, also, taken the liberty of sending a copy of this letter to each member of the Committee on the Judiciary of the Senate.

The provision which concerns us is a proviso, popularly known as the Holt Amendment, which states:

"Provided further, That none of these funds shall be used to compel any school system as a condition for receiving grants and other benefits from the appropriations above, to classify teachers or students by race, religion, sex, or national origin; or to assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin."

It is our understanding that, as expressed in a letter of December 2, 1974 from Secretary Weinberger to Senator Magnuson, this proviso may be interpreted to foreclose the authority of the Department of Health, Education and Welfare to enforce its responsibilities under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and Title IX of the Education Amendments of 1972.

While judicial interpretation of this provision cannot, of course, be predicted, our concern involves two potential consequences of the proposed amendment.

First, the Congress has recently expressly and specifically addressed the problems it found in the field of school desegregation by the enactment of the Education Amendments 1974, P.L. 93-380 (approved August 21, 1974). Title II of that legislation, the Equal Educational Opportunity Act of 1974 (see 20 U.S.C. 1701) speaks to equal educational opportunities and the transportation of students. In that legislation, the Congress declared "it to be the policy of the United States that \* \* \* all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin." (20 U.S.C. 1701).

In our view, the proposed amendment is inconsistent with this recent declaration by the Congress. In particular, if the proviso were judicially interpreted as suggested above, the Department of Justice and the federal courts would be required to assume the entire responsibility within the federal government for compliance with constitutional provisions and federal laws concerning school desegregation. This would both require a substantial increase in the resources of the Department of Justice to discharge this function, and would impose on the federal judiciary a great increase in the demands placed on it since, under the provision, actions concerning school desegregation could be taken by the Executive branch only in federal court.

Second, the Holt Amendment raises constitutional questions of importance which, in our judgment, have not yet been sufficiently considered. The effect of the Amendment, if it is interpreted as suggested above, would be to negate Title VI of the Civil Rights Act of 1964 with respect to enforcement authority of HEW, but only in the area of education. Such a selective limitation, especially given the particular history of civil rights provisions, might raise constitutional questions. In our judgment, these issues should be thoroughly explored and considered before a proviso such as this is enacted.

To avoid these difficulties, we suggest you might consider making clear, by amendment or otherwise, that the proviso is not intended to affect any actions or proceedings designed to implement the non-discrimination provisions of federal law.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

W. VINCENT RAKESTRAW,  
Assistant Attorney General.

Mr. JAVITS. Mr. President, I suggest that we should have a rolloall on this particular important amendment by the leadership, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, in behalf of the Senator from South Carolina (Mr. THURMOND) and myself, I send to the desk an amendment to the amendment of the Senator from Pennsylvania and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the amendment, strike the period, and add the following: "upon a determination by a court of the United States that such discrimination exists."

Mr. HELMS. Mr. President, as I say, I have submitted this amendment in behalf of the distinguished Senator from South Carolina (Mr. THURMOND) and myself.

The amendment that we are offering is very clean and straightforward. It simply provides that none of these funds shall be used to require any school system, as a condition for receiving grants and other benefits from the appropriations in this bill (H.R. 16900), to classify teachers or students by race, religion, sex, or national origin; or to assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin unless a court of the United States has first determined that discrimination on the basis of such criteria, in fact, exists in that school system.

The purpose and intent of this amendment is to insure that before the Department of Health, Education, and Welfare takes any action—including, but not limited to, withholding funds—regarding any school system concerning any possible discrimination, there must first be a determination by a court of the United States that such discrimination exists. If there is such a determination by a Federal court and if the appellate process has been exhausted, then, of course, HEW has the full authority granted it under previous congressional enactments. However, under this provision, HEW may not act summarily without a court determination.

This provision simply affords our school systems a fundamental American right—the right to be presumed innocent until proven guilty and the opportunity to have its day in court. I would not deny this due process to any man, and I certainly would not deny it to the schoolchildren of our country.

I urge the adoption of this amendment, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the amendment presented by the Senator from Pennsylvania (Mr. HUGH SCOTT).

The yeas and nays were ordered.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Is there a previous order as to a voting time today?

The PRESIDING OFFICER. There is none.

Mr. HELMS. Mr. President, I ask unanimous consent that the vote on my amendment to the amendment not occur prior to 2 o'clock.

Mr. ROBERT C. BYRD. Mr. President, I wish the Senator had cleared that matter with the leadership on both sides. Another matter is to come before the Senate at 2 o'clock today.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I must object.

Mr. HELMS. I will withdraw the request.



The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. Mr. President, the distinguished Senator from South Carolina (Mr. THURMOND) is on his way to the Chamber, and would like to address himself to this amendment. I hope the leadership will allow some time for those comments by the Senator.

The PRESIDING OFFICER. There is no time limitation.

Mr. ROBERT C. BYRD. Mr. President, I may have misunderstood the Senator's request. Will he state it again?

Mr. HELMS. We do have a previous order? We had a previous order as to voting on this amendment?

The PRESIDING OFFICER. There is no previous order.

Mr. BROOKE. The request was to defer the vote on my amendment to approximately 2 o'clock.

Mr. ROBERT C. BYRD. Then I did understand the Senator correctly. I would have to object to that.

Mr. BROOKE. Mr. President, as I understand, this matter was to be taken up at 1 o'clock without any unanimous-consent agreement, and the vote would then follow the vote on the Rockefeller confirmation. Is that not correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BROOKE. And there is no time limitation on any amendment, and no unanimous-consent agreement for any time for any vote on any amendment?

Mr. ROBERT C. BYRD. The Senator is correct. Let me state to the distinguished Senator from North Carolina, I have no objection to voting on the amendment now. I just want to renew our understanding of the fact that at 2 o'clock today the Senate will go into executive session to consider the nomination of Mr. Rockefeller. Debate will ensue thereon, and the Senate will vote on the nomination at 3 o'clock.

Mr. BROOKE. Is it the Senator's desire to have a vote on this amendment prior to 2 o'clock?

Mr. HELMS. Not necessarily. I am mainly interested in the Senator from South Carolina (Mr. THURMOND), who is on his way to the Chamber, having enough time to consent.

Mr. BROOKE. So we will just talk on it, and then come back to it after the Rockefeller nomination?

Mr. ROBERT C. BYRD. That is correct.

Mr. JAVITS. Mr. President, the Senator from Massachusetts will shortly be speaking in opposition to the amendment to the amendment. As I was here when it was read, I would just like to address one or two thoughts to it, that will take a very short time.

Mr. President, the real issue of this debate and the vote will be whether or not any residual power shall exist in the Department of Health, Education, and Welfare with respect to the enforcement of the Civil Rights Act of 1964, because all the amendment does is say that only the courts may, when they find unlawful segregation, order facts and figures, et cetera, to be produced, which would be inhibited by the Holt amendment.

That defeats the scheme of enforcement devised by Congress in 1964, and

also introduces elements of social instability, because you can have tremendous reactions, social unrest, demonstrations, and even riots if they have to wait 2, 3, 4, or 5 years until the court eventually decides before getting any facts and figures on which to base any action under the Civil Rights Act of 1964.

So, while I know the Senator offering the amendment meant it to be an olive branch of a sort, all it does is lock in the very purpose of the Holt amendment, and this is something which we must, in all good conscience, be against, as it destroys the whole fabric of the legislation which we constructed in 1964, with all the attendant dangers and difficulties which we sought to deal with when we enacted the Civil Rights Act of 1964.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. BEALL. I can appreciate the opposition to some aspects of the Holt amendment, but I think there also should be concern about the fact that HEW in many instances, under cover of promotion of civil rights, in my opinion is harassing local school systems in asking them to produce the information that is not readily available, and which, as a matter of fact, is very difficult and often very expensive for them to provide, and threatening, if they do not provide this information in an unreasonably short period of time, to cut off their funds.

It seems to me there should be some balance in all of this, and I would like to ask the Senator if there is some way that we could develop language in this bill to provide the kind of balance that some of us think is necessary, on the one hand assuring that we are not going to have segregation in the school systems, but on the other hand assuring also that the Department of Housing, Education and Welfare, in an effort to impose Federal control over the operation of what should be locally operated schools in an effort to increase the powers of the Federal bureaucracy over local and State governments, is not going to use civil rights as a cover for carrying on these kinds of actions that they seem to be embarked upon in my own State, which we alluded to when we discussed this matter on November 19, 1974, on the Senate floor—see CONGRESSIONAL RECORD, pages 19637-19643.

Mr. JAVITS. If I may just answer that, and then I would like to turn it over to Senator Brooke. There are four ways which we have. One is the power of legislative oversight. My colleague serves on the committee which deals with education, and we have said before, and I say again, I am the ranking member, and I will work with him hand in hand to have a hearing on any such arbitrary exercise of power. We generally can correct it that way.

The second way is through appropriations and appointments. We have to confirm in our committee all nominees to that particular department. We deal with authorizations for appropriations, and we have the power on the floor respecting appropriations. So that is item No. 2.

The third item is the courts which are available to anyone who feels he is being

harassed or improperly treated, even by an interlocutory order of injunction.

The fourth is the public forum. Senators get up here, as the Senator from Maryland has, and denounce a Government department or a Government bureaucrat, the press, radio, television, local citizenry, zero in on that and, generally speaking, it is a very effective way.

Now, there may be others, but there are at least four ways.

I yield.

Mr. BEALL. May I comment on those four points before we get into further discussion? I appreciate those suggestions, and I appreciate the offer the Senator made several weeks ago when we were discussing this matter to have a meeting of the Education Subcommittee to look into it, and I think it should be done regardless of the outcome. But I would also point out that legislative oversight generally takes place after the fact, and in the instances in which I have some concern it is after the fact.

The legislative oversight might be helpful in preventing excesses in the future but, as a matter of fact, the excesses has already occurred, so this is an after-the-fact operation so far as that remedy is concerned. It also does not spare a district of the work and expense that some GS-12 might demand. Apparently, HEW feels they have authority to demand any and everything without even first determining the validity of individual complaints.

Mr. JAVITS. Mr. President, may we ask the Senator from Washington, is the committee opposed to the Holt language? What is the committee's position?

Mr. MAGNUSON. Mr. President, this is the item in the Labor-HEW chapter of the bill which has caused a great deal of controversy over the last few weeks. This item is referred to as the Holt amendment and deals with the classification of students and teachers in elementary schools.

There has been a great deal of confusion on this matter—and I would like to try to clear the air for the Members.

When the so-called Holt language was first added to the supplemental bill on the floor of the House, many were not aware of its real impact. As is our usual procedure, the Senate committee asked HEW to provide a clear, factual explanation of the language as well as its effect on HEW programs. At this point, the Department transmitted a document—which I will place in the record—which said that some portions of the language were damaging, while other parts would not be interpreted to have any effect on the civil rights program. This is HEW's own document—and it was prepared in the Office of the Secretary. I ask unanimous consent to have printed in the RECORD this document.

The PRESIDING OFFICER. Without objection it is ordered.

(See exhibit 1.)

Mr. MAGNUSON. The Members will recall that the Senate committee recommended deletion of the House language on the grounds that this does not belong on an appropriations bill. This is a complex legislative issue that should be dealt with separately. The majority of the Sen-

ate agreed with the committee's position and did not restore the language.

During the conference session on the supplemental, the House conferees offered a compromise. This compromise was based on the document HEW prepared. Although the Senate was somewhat reluctant to accept any compromise, it was obvious that support in the full House made it necessary. The agreement was reached to knock out the damaging language.

No sooner had the conferees reached agreement when HEW reversed itself and Secretary Weinberger rushed up a new piece of paper—with a new interpretation of the language. This was as much a surprise to me as it was to everyone else.

I ask unanimous consent that this document may be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MAGNUSON. I am aware that some Members wish to either modify or delete the language in question—and send it back to the House. Considering all the confusion that HEW and others have caused on this issue, this might be the best, most prudent course of action.

I would hate to see a provision that may carry such a profound impact, be passed under a cloud of confusion.

Many people might be for the Holt language, or some of us against it, including the Senator from Massachusetts and myself, but we just thought it did not belong on this appropriation bill.

#### EXHIBIT 1

##### EFFECT OF THE HOLT AMENDMENT

The Holt amendment to the Supplemental Appropriations Act would prohibit the use of any funds appropriated under the Act to compel any school system, as a condition to receiving funds under this Act, to classify teachers or students by race, religion, sex, or national origin; to assign teachers or students to schools for reasons of race, religion, sex, or national origin; or to prepare or maintain any records, files, reports, or statistics pertaining to those classifications.

This amendment would adversely affect civil rights enforcement with respect to the programs included within this Supplemental Appropriations Act. Perhaps the most damaging portion of proposed amendment is the clause prohibiting the Department from compelling school districts to prepare and maintain records pertaining to the race, religion, sex, or national origin of students and teachers. Such records are essential to identify discriminatory practices by school districts receiving Federal financial assistance and to monitor the elimination of such practices. Without such data the Department will be unable to make responsible enforcement decisions without a prohibitive increase in enforcement personnel and attendant costs.

Furthermore, depriving the Department of the means of systematically obtaining from school systems data concerning race, sex, or national origin will impede the congressional purpose in a number of programs for which funds are appropriated under this Act. For example, in providing assistance to school districts for dealing with problems incident to desegregation (42 U.S.C. 200c-2), the Department would virtually be required to obtain such data in order effectively to carry out the congressional purpose of the statute. Similarly, data regarding national origin is necessary for the Department in administering the Bilingual Education Program under title VII of ESEA.

The amendment also prohibits the use of funds to compel the assignments of students and teachers "for reasons of race, religion, sex, or national origin". Although it is not clear what particular activities were intended to be prohibited by this language, we do not read the language to prohibit the Department from requiring school districts to take steps to eliminate desegregation and remove the effects of past discrimination. To so read the language would imply a present purpose by Congress to repeal, in significant part, title VI of the Civil Rights Act, title IX of the Education Amendments of 1972, and section 204 of the Education Amendments of 1974, as those provisions relate to the programs for which funds are appropriated under this Act. Consideration of race in developing and implementing remedial action has long been held by the courts as well as by this Department to be an essential element of programs designed to ensure compliance with the Equal Protection requirements of the Fifth and Fourteenth Amendments, title VI, and similar statutes. Identical considerations would apply to the use of data related to sex, religion, and national origin in correcting discrimination on those bases.

#### EXHIBIT 2

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,

December 2, 1974.

Hon. WARREN G. MAGNUSON,  
Chairman, Subcommittee on Labor and Health, Education, and Welfare, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Supplemental Appropriations bill for fiscal year 1975 (H.R. 16900) as reported out of the Conference Committee contains the following provision relating to the classification and assignment of teachers and students for reasons of race, religion, sex, or national origin:

"Provided further, That none of these funds shall be used to compel any school system as a condition for receiving grants and other benefits from the appropriations above, to classify teachers or students by race, religion, sex, or national origin; or to assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin."

Although the effect of the above language is somewhat ambiguous, in our view most courts would hold that the amendment ends our basic authority to enforce civil rights laws, particularly title VI of the Civil Rights Act of 1964, which prohibits use of Federal funds for programs that discriminate as to race, color, or national origin, and title IX of Educational Amendments of 1972, which carries a similar prohibition with regard to sex discrimination in education programs.

Although the Conference deleted language from the original Holt Amendment that would have prohibited the Department from requiring school systems to prepare or maintain "any records, files, reports, or statistics pertaining to the race, religion, sex, or national origin of teachers or students", the prohibition relating to the classification of students and teachers was left intact. That provision would prohibit the Department from requiring grantees to collect and report certain statistical information relating to the treatment of minorities. Without such information the Department would be unable to make the key decisions as to where to direct our investigative resources under titles VI and IX. Nor would be able to investigate the numerous complaints of discrimination against minorities and women without access to data classifying students and teachers.

In addition to those problems, however, the above proviso would prohibit the Department from compelling any school sys-

tem, as a condition to the receipt of Federal funds, to "assign teachers or students to schools, classes, or courses for reasons of race, religion, sex, or national origin". Although this language is somewhat ambiguous, in our view it would restrict the Department from enforcing the requirements of titles VI and IX in those cases where a reassignment of teachers or students might be necessary to eliminate discriminatory assignment practices.

This is a highly complex legal issue and one that is certain to be presented to the courts. If the courts give full effect to the proviso, the Department could not carry out its responsibilities under titles VI and IX. Doubtless there are various interpretations courts could adopt; but it might take two to three years to get a final interpretation. In the meantime we could not violate the Holt Amendment and therefore we would not be able to enforce titles VI and IX to the extent indicated.

Sincerely,

CASPAR W. WEINBERGER,  
Secretary.

Mr. JAVITS. The Senator himself has joined in this amendment, has he not?

Mr. MAGNUSON. I have joined with the Mansfield-Scott amendment.

Mr. BEALL. This is very interesting, but I would like to pursue the original line of questioning.

Mr. JAVITS. Mr. President, I yield to the Senator from Massachusetts.

Mr. BROOKE. As I understood the committee vote, we voted against the Holt amendment not just because it was legislation on an appropriation bill but also because we opposed the Holt language on its merits.

Mr. MAGNUSON. That was my position.

Mr. BROOKE. That was your position, my position, and that was the position of the majority.

Mr. MAGNUSON. That was my personal position.

Mr. BROOKE. It came up on the floor of the Senate, where there was a lengthy debate and a vote rejecting it. The Senate's position was made perfectly clear. Then it went to conference where unfortunately the House language was inserted again. And here we are now again for the second time.

Now, if we can get to the Senator's question.

Mr. BEALL. I want to comment on the further suggestions made by the Senator from New York. He suggested further that we have the power of appointment.

I would suggest that that is true. Appointments come up here for confirmation periodically.

In the case in which I have some interest, representing the State of Maryland, we had meetings between the local school officials and the proper appointed department heads. But the word never seems to get from the executive suite down to the third floor where the bureaucracy is or up to Philadelphia where the regional office is because what was agreed to at one point in a meeting was not implemented in the actual carrying out of the policies. So that is not a very good answer to our question either.

The Senator suggests the courts. Well, the matter now is in the courts because the school board, after being harassed by this bevy of Government officials, fi-

nally has asked that it be taken to court because that is the only place they can get a resolution.

Finally, the Senator has suggested there is public forum. Sure there is a public forum, that is what this place is, and that is what we are trying to do today. But it seems to me we ought to be able to provide an answer to a specific situation where there has been unnecessary harassment on the part of the Federal bureaucracy, and I am suggesting—

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. JAVITS. I have the floor, but I yield to the Senator.

Mr. BROOKE. If the Senator will yield, as I recall the Senator is very much concerned about the alleged harassment in Anne Arundel County in Maryland.

Mr. BEALL. That is correct, and other instances in Maryland.

Mr. BROOKE. That is correct.

After the defeat of the Helms amendment, the Senator from Maryland proposed an amendment of his own on the floor of the Senate.

We had a very lengthy debate and, as I recall, we also asked for a quorum call so we could possibly work out some language which would take care of the rather unique condition which we felt might exist in Anne Arundel County.

Now, at that time we tried to have a colloquy on the floor which would make legislative history so that HEW would understand that we would not tolerate harassment from what the Senator from Maryland has called, the bureaucrats of HEW, not only in Anne Arundel County but any place in the country.

I thought we gave all the assurances we could possibly give to the Senator from Maryland that all of us would do whatever we could to see that HEW got the message loud and clear, and if there was harassment in Anne Arundel County that it would cease and desist.

The Senator insisted at that time that this matter be taken to a vote; he took it to a vote, and the amendment was defeated. But we still wanted the subcommittee to have hearings, so that the subcommittee would use its influence, and everyone else would use their influence.

In addition to what the distinguished Senator from New York has said about protections, I just want to point out to the Senator from Maryland the letter which was signed by HUGH SCOTT and MIKE MANSFIELD, the majority and minority leaders. I would like to point out just the third paragraph of that letter written on December 6, 1974, pertaining to the Scott-Mansfield language, which said:

With the full support of the Administration, we have offered an amendment to this provision which would clarify our intent that all Federal anti-discrimination laws are to be enforced while still retaining the Holt amendment's admonition to HEW not to unduly harass schools and colleges. We believe it would be tragic to make such a sweeping repeal of landmark civil rights legislation on an appropriation bill, without any committee consideration, and we urge you to support our amendment next week. Attached is a copy of Sec. Weinberger's letter opposing the amendment.

I would point out that it is the intent of the majority and minority leaders that there be no undue harassment of schools and colleges by HEW or any other Federal bureaucrats.

So I think that, in addition to what the distinguished Senator from New York has said, with the adoption of the Scott-Mansfield language there would be a protection which the Senator desires to have for Anne Arundel County or any other counties that might feel they are being harassed by HEW.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. BROOKE. Yes.

Mr. BEALL. I appreciate the Senator's concern for this county in Maryland, and other counties in similar situations around the country.

I am skeptical, however, of HEW's ability to hear because I do not think they get the message unless we write it into the law, because there have been other attempts to send messages to HEW to try to get them to apply their policy in a balanced manner equally across the country, but I do not think these attempts have succeeded.

What concerns me now is the fact that as well intended as might be this language, the so-called Scott-Mansfield language, it allows HEW to do almost anything they want to do, because they can go in and ask for any statistic, they can require any school board to spend any amount of time, require the labor of any number of people in compiling data that they say, that one employee down at HEW says, is needed to enforce nondiscrimination provisions of the Federal law.

Mr. BROOKE. Short of harassing any school board.

Mr. BEALL. If the Senator will remember our discussion of a few weeks ago, I chronologically laid out the situation in this one county in the State of Maryland where vague complaints were made to HEW about disciplinary procedures in one of the schools. It so happened that the school had a black principal.

HEW never has investigated that complaint as determined the validity of the complaint; instead, they have embarked upon this pilot investigation, requiring the county to compile all the information, and; they have threatened the county with the loss of Federal funds.

I pointed out at one point they sent the county school superintendent a letter and said, "If you do not furnish this information within 15 days, you are going to lose your Federal funds."

The school superintendent came to us, and we asked for a clarification of HEW, and it took HEW 30 days to reply to our letter.

We have had further instances where they have made requests and it was determined by the school people in Anne Arundel County that as of now it would require six administrators working full-time for 6 months to furnish HEW with all the information they were requiring and they have still yet to make a determination on the original charge.

If this is not harassment, I do not know what it is. This is an example of bureaucracy being unreasonable and I

think in this particular legislation there is a great big loophole where one bureaucrat, one employee downtown, can drive a wedge and require the local school system to come up with any information that he thinks he needs and which may not necessarily be needed to help enforce the Federal law.

Again, I think the civil rights cause has been a very noble fight. I think we have made tremendous progress in the last 20 years in this county to assure that people of differing races and religions get equal treatment under the law, but I do not think we ought to allow the civil rights laws to be used by bureaucrats who are anxious to broaden their own areas of responsibility, to be used as a cover to bring about more Federal involvement in the operation of local school systems.

I am concerned that we do not have the proper balance today. I do not want to undo in any way what has been done over the last 20 years with the tremendous strides which have been made, but I do want to make sure we keep our eye on the road, that we fight discrimination but not allow Federal bureaucrats imposing unreasonable requests on local school systems.

Mr. BROOKE. Will the Senator yield?

Mr. BEALL. Yes, I am happy to yield.

Mr. BROOKE. There is nothing which the Senator has said that I cannot agree with wholeheartedly, and I do not believe the Senator can feel that by the adoption of the Helms amendment we can continue to make the great strides in progress in civil rights that the distinguished Senator from Maryland has said that he so strongly supports.

I believe the Senator from Maryland when he says that. I have the greatest respect and admiration for him and his integrity when he says he applauds the fact that we have made great progress in civil rights.

Mr. BEALL. And I hope I have been a part of that progress.

Mr. BROOKE. And he has been a part of it and I commend him for it.

But, certainly, the Senator from Maryland must understand that if we adopt the Helms amendment we are taking a giant step backward in the whole field of the enforcement of civil rights.

Now, what language does the Senator from Maryland have that would give him the protection that he so desires to see that there would be no harassment? And I do agree that there should not be harassment. I do not want to see the Federal bureaucracy harass anybody in the name of civil rights.

I think the Senator is absolutely correct that if we had such legislation I would be voting for it myself. But what I am saying to the Senator is that we have tried to establish, by the colloquy on this floor, legislative history to make clear the intent of this Congress to HEW, and to any other Federal bureaucracy. But we also want to make it clear that we want to enforce the civil rights laws that are on the books, and certainly not take away from that Federal bureaucracy, and particularly from HEW, the only tools with which they can work in order to enforce civil rights.

I have great respect for JESSE HELMS;



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he is a friend of mine. We debate on the floor and I understand what he wants to do, but all I am saying to him is this, that if we do not have the tools with which to work, then the civil rights law is a nullity.

How can one enforce the rights of women if we cannot tell how many women there are?

How can we enforce the rights of blacks or Indians or anybody else if we cannot tell how many there are?

And the Helms amendment would take away from us the opportunity to get that data and that information which is so essential in the enforcement of civil rights laws.

If the Senator has any language that would stop harassment, I am for it. But we have not come up with it and it certainly is not contained in the Helms amendment or any other amendment that has been suggested on this floor.

Mr. BEALL. Will the Senator yield?

Mr. BROOKE. Yes.

Mr. BEALL. I agree it is important that data be collected. I think it is very important that this be done. But, at the same time, I think that commonsense must be employed that there has to be balance in all this and I think we have slipped over to the other side now. I think we are moving into the area of imbalance.

I do have some language, as a matter of fact—

Mr. BROOKE. How would the Senator do it? How would the Senator say we can enforce the civil rights law if we are unable to accumulate and to keep records and have the data which is so essential?

Mr. BEALL. I think we should establish administrative procedures and guidelines so the people in the school systems have another chance to refute these charges.

As it is now, they can only turn in desperation to the courts. This is very lengthy and expensive, and a last resort.

There is a need for adequate administrative procedures for school systems to present their case to the Department of Health, Education, and Welfare. They are at the mercy of the bureaucrats who threaten them with loss of Federal funds unless they do exactly what the bureaucrat wants them to do, and that is not always the best thing that should be done, nor is it always necessary to promote the cause of civil rights.

I am concerned that we do not have this kind of balance and I think we have seen recently the kind of excesses that do a great injustice and undermine the cause of civil rights.

Now, I will suggest that at the conclusion of the Scott-Mansfield language we add a sentence, and to some extent this is taking care of the problem in which I have an interest, at least it will provide some restraint.

At the conclusion of the Scott-Mansfield language:

*Provided, however,* That none of the funds contained herein shall be used to compel any school system, as a condition for receiving grants and other benefits, to participate in any pilot investigation of the problems of discrimination in disciplinary action.

Mr. BROOKE. Will the Senator yield?

Mr. BEALL. Yes.

Mr. BROOKE. Is that not the identical language that the Senate voted upon and defeated on November 19, 1974.

Mr. BEALL. It most certainly is. The Senator has a very good memory. I congratulate him.

Mr. BROOKE. So the Senator is asking to reconsider an amendment defeated by the Senate less than 3 weeks ago?

Mr. BEALL. Yes, I am. The Senate has done this on many occasions.

Mr. BROOKE. The Senator has not amended that language at all?

Mr. BEALL. No, I believe the Senate deserves another chance at this.

Mr. BROOKE. This is really a motion to reconsider the Beall amendment, is that correct?

Mr. BEALL. Well, not really, it is in a different context and circumstances.

Mr. BROOKE. But it would have the same effect?

Mr. BEALL. It would have the same effect; it is the same amendment.

Mr. BROOKE. So the Senator did not learn anything from the previous debate and colloquy?

Mr. BEALL. The Senator from Maryland learned a lot from that debate, that probably there is more support for his position than at that time because there were very few people interested in it at the last date. Many felt it was only a local matter, but now realize its national implications.

Mr. BROOKE. I do not see too many more interested in it today than before.

Mr. BEALL. The Senator from Maryland has also not seen that HEW has shown much interest in our discussion, either, and no improvements have been forthcoming since our previous debate.

Mr. BROOKE. I told the Senator from Maryland that I would accompany him—and others said they would do the same thing—and walk down and have Caspar Weinberger meet with us to help his unique situation in Anne Arundel. I do not believe it exists anywhere else.

Mr. BEALL. There are currently no other pilot studies in effect, that I know of, pilot investigations of the problems of discrimination in discipline in the country, although some are contemplated, and I think this is one place where we can say to HEW, "Stop, wait a minute, get some direction from Congress" before proceeding down this road, because they are overstepping the bounds.

Mr. BROOKE. Will the Senator yield?

Mr. BEALL. Yes.

Mr. BROOKE. I certainly—and I think the Senator understands—did not intend to be facetious when I asked the Senator had he not learned anything from the debate of several weeks ago.

The only thing I point out to the Senator is: Has he not seen that his language would just do almost entirely the same thing that the distinguished Senator from North Carolina would do under his amendment?

Mr. BEALL. No, because my language would stop him from doing something they are about to do in one instance, keep them from spreading this same abuse around the country until Congress

has had a chance to speak out on this issue.

It would give us the opportunity to hold the hearings that have been suggested by the Senator and the distinguished Senator from New York. It would give Congress an opportunity to speak on this issue before HEW took unilateral action that may or may not be desired. It will give us the opportunity to determine if we want county's to use education resources and information collecting massive data, before HEW concludes its investigation of a single complaint.

That is the intent of my amendment.

Mr. BROOKE. If the Senator will yield, it seems to me that the only evidence we have of any alleged harassment is that which the Senator from Maryland refers to, which takes place in Anne Arundel County, Md. If that is true, it is most regrettable. But the hearings, if I understood correctly, would be to determine whether there was harassment in Anne Arundel County, and whether there was harassment in any other State in the Union.

I thought that is what we had hoped to achieve in the hearings, and then see what could be done to stop that harassment.

Mr. BEALL. I think we were to go a little further. It was my understanding that we were trying to determine whether there was a discrimination in disciplinary practices based on mere statistical differences.

Mr. BROOKE. That is right.

Mr. BEALL. I believe there should be some determination made of the individual complaints before we have HEW requiring school systems to turn themselves inside out to meet certain conditions imposed by unreasonable people.

Mr. BROOKE. If my distinguished colleague believes that all these things should result from the hearings, then why is he so insistent upon having his amendment to change the law voted upon now, rather than wait until such time as we do have the hearings? The effect of the Senator's amendment, as is the effect of the Helms amendment, would be to change existing law. The only reason for changing existing law is that the law is not working or is not working well, or that you have some legislation that would improve upon it.

Mr. BEALL. I believe my language is temporarily improving upon the law. HEW is embarking on new pilot investigations. It gives the Congress the chance to have the kind of oversight that is necessary to determine if excesses are being carried out.

Mr. BROOKE. But we have had no opportunity to have hearings to determine, No. 1, whether there are excesses; No. 2, what should be done if there are excesses.

Mr. BEALL. I believe the Senator has the cart before the horse, using a figure of speech.

Mr. BROOKE. The horse is present legislation, is it not? The existing law is the horse, as I understand it. The cart, it seems to me, that the Senator is coming along with is that he wants to change existing legislation.

I want to know why the Senator wants

to change existing legislation now before we know what is best.

Mr. BEALL. I want to maintain the thrust on integrating the schools and making sure that people of all races, creeds, and colors are treated the same all over this country. I also want to prevent this bureaucracy from intruding into the operation of the local school systems to the point where the local school systems have lost control.

I want to keep them from making unreasonable requests of local school administrators. I want to keep them from requiring that 6 administrators spend 6 months of their time coming up with some insane information that somebody thinks might be useful at some future date.

I believe this is too costly a process to impose upon already hard-pressed local school districts.

I feel the Congress ought to speak out on that before we give a blank check to HEW to go ahead and embark on these dreams that they have.

Mr. BROOKE. Under existing law, we have already given authority, power, and responsibilities to HEW. HEW is carrying them out.

My colleague from Maryland is saying that at least in Anne Arundel County HEW is not carrying out the legislation in a proper and acceptable manner. Is that correct?

Mr. BEALL. That is correct. I think there are other examples of this across the country. I do not believe the Congress is exercising oversight over HEW.

Mr. BROOKE. The Senator says he thinks there are other examples but he has no evidence of that. Is that correct?

Mr. BEALL. Yes, we do. We have had examples in other discussions before the Education Subcommittee and in other discussions in the Chamber. We have put examples into the Record. A couple of weeks ago the Senator and I discussed this matter in the Chamber.

Mr. BROOKE. Why did my distinguished colleague agree, then, to narrow his language so that it would only include Anne Arundel County, if he knew that the situation existed in other areas?

Mr. BEALL. If the Senator will remember our discussion, I declined the offer to use the words Anne Arundel County, Md.

Mr. BROOKE. It was not my offer.

Mr. BEALL. It was one that the Senator appeared to agree to. If the Senator will remember our discussion of a couple of weeks ago, one of our colleagues came to us and said, "Will you accept the words 'Anne Arundel County'?" I said, "No."

The Senator indicated he might accept Anne Arundel County. I want this to apply countrywide. Just because we have an example in Maryland, I believe we should restrain HEW from having the similar actions all over the country until the Congress has had the opportunity to speak out.

Mr. BROOKE. Even though the Senator does not know that this situation exists anywhere else in the country, other than in Anne Arundel County?

Mr. BEALL. The Senator from Maryland has reason to believe, because of

the testimony he heard from other Senators on the day that the Senator and I discussed this matter, that HEW is contemplating similar action in other States.

Mr. BROOKE. Does the Senator want us to legislate on what he has reason to believe someone is contemplating doing?

Mr. BEALL. Yes; because, in my experience in dealing with the bureaucracy, I believe we have to be concerned about what we know them to be contemplating doing.

Mr. HUMPHREY. Will the Senator yield?

Mr. BROOKE. I shall yield to my distinguished colleague from Minnesota, but first let me say that I hope that the Senator, who believes so strongly in civil rights, recognizes, unlike many others, that this amendment is not a busing amendment or an antibusing amendment. And I hope that he will not jeopardize the progress that has been made in the field of civil rights, of which the Senator is justly proud, forcing his amendment today merely to take care of Anne Arundel County where he has evidence that there has been harassment by some bureaucrat—

Mr. BEALL. Bureaucrats.

Mr. BROOKE. Bureaucrats, two or three bureaucrats in Anne Arundel County. I do not believe that the Senate will jeopardize our civil rights laws, because of that possible harassment by two or three bureaucrats in Anne Arundel County, Md. I just do not believe it.

Mr. BEALL. If the Senator will yield, I appreciate his comments. He is oversimplifying the situation.

Mr. BROOKE. I do not believe I am.

Mr. BEALL. I believe the Senator is. I think the Senator has failed to recognize that this is what I consider to be a very dangerous step on the part of the bureaucracy to use civil rights, the good name of civil rights, in their efforts to collect more responsibilities and authority into the central government represented in HEW in Washington. I think we ought to have some check on this. I believe the Department is being unreasonable.

It is important, to the extent that we can, that we try to preserve the ability and the authority of local people to maintain control over the operation of their schools in the counties and the States across this country. I think that my amendment in no way jeopardizes the splendid efforts that have been made to achieve racial balance in this country. It only provides some restraint on an overzealous Department in imposing further burdens on already hard-pressed people. It would require that they come before the Congress and tell us what they are about with respect to their pilot investigations and what procedures will be used.

Mr. BROOKE. The hour of 2 o'clock is close upon us. I would just like to say to my distinguished colleague that I think that this has been a very healthy and rewarding colloquy, because it assures me that my distinguished colleague from Maryland will vote against the Helms amendment. Obviously, the Helms

amendment does not do what my colleague wants done.

It certainly would not address itself solely to the HEW bureaucracy.

It assures me also that my colleague wants to continue the great progress that we have had in the field of civil rights. I think that after the confirmation of Gov. Nelson Rockefeller we will have an opportunity, when the Scott-Mansfield language is brought before the Senate and a possible amendment to that is placed on it by my distinguished colleague from Maryland, to have a further opportunity to debate this subject.

Mr. BEALL. I am sure we will. I welcome the opportunity, because I believe it could prove to be a healthy debate, pending the outcome of our discussion. I would not want the Senator from Massachusetts to be too assured from my comments that I may vote one way or the other. This presents many of us with a dilemma. On the one hand, we support civil rights but on the other hand we are determined to put an end to the abuse in HEW. I am thinking my own language, perhaps, provides the ideal solution.

I would hope the Senator from Massachusetts would be able to accept and endorse this language, because it would provide some answers, as far as I am concerned.

Mr. BROOKE. I would not presume to record my colleague on any vote. I will wait to see how he votes. But I do know how he feels about civil rights. I am sure if he has understood this debate, as I am sure he has, he will recognize that the Helms amendment would be disastrous to the civil rights laws of the country.

The PRESIDING OFFICER. The hour of 2 o'clock has arrived. Under the previous order, the Senate will now go into executive session—

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator be allowed to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I address these remarks to the distinguished majority whip. I wonder whether we can obtain a unanimous-consent agreement to vote on the Helms amendment and the Scott-Mansfield amendment after the vote on the Rockefeller nomination. Is there a possibility of a unanimous-consent agreement?

Mr. ROBERT C. BYRD. Mr. President, I will do everything I possibly can. I am not sure what the prospects are. I will try.

Mr. BROOKE. Mr. President, I ask unanimous consent that during the consideration of these amendments, Ralph Neas, a member of my staff, and Bert Carp and Ellen Hoffman, of Senator MONDALE's staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I ask unanimous consent that Joseph Carter, of my staff, also have the privilege of the floor.

Mr. ROBERT C. BYRD. Mr. President,

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reserving the right to object, in connection with what matter?

Mr. BEALL. The matter under consideration.

Mr. ROBERT C. BYRD. The Rockefeller nomination?

Mr. BEALL. No, the Helms amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, when the supplemental appropriations bill was voted in the Senate a short time ago, an amendment by the Senator from North Carolina (Mr. HELMS), was defeated by a vote of 43 to 36. The amendment was characterized as an antibusing amendment, and since I have consistently opposed the use of busing to achieve racial quotas, I supported it.

A variation of that amendment, which was originally introduced by Congresswoman HOLT, was approved by a House-Senate conference.

However, a close reading of the Holt amendment, even as it has emerged from conference, reveals that it is far more sweeping than was originally thought. The amendment contains provisions that would strike at the heart of some of our landmark civil rights legislation, in particular the Civil Rights Act of 1964. Title VI of the 1964 act provides that—

No person in the United States shall, on the basis of race, color, or National origin, be excluded from participation in, be denied the benefit of, or subjected to any discrimination under any program or activity receiving Federal financial assistance.

The idea that all Americans, regardless of race, sex, or creed are entitled to have an equal opportunity for education and employment is deeply embedded in our law. The concept sprung from the conscience of America. Civil rights is an inviolate moral—as well as legal—commitment. Aside from title VI of the Civil Rights Act of 1964, there is also IX of the Education Amendment of 1972, which carries a similar promise of equality with regard to sex.

The Holt amendment, in my view, would make it exceedingly difficult for the major provisions of law to be enforced. The provision of the amendment that most concerns me prohibits agencies of the Federal Government from requiring that teachers and students be classified in the schools by race, religion, sex, or national origin, as a condition of receiving Federal funds.

On the surface, that provision has considerable appeal; however, its practical effect, as Secretary Weinberger has noted, will be to impede the enforcement of our civil rights laws. It is not a provision directed at busing, for busing is only one of a series of remedies the Government has at its disposal. I have made it clear that I oppose busing.

The Holt amendment, by saying that the keeping of records is not required, makes it impossible for the Government to determine if discrimination exists. If there are no records, there is no way to identify the possible sources of discrimination. Nor is it possible to determine where Federal funds should go in such fields as bilingual education, which will depend, at least in part, on knowing

where the Spanish-speaking students are located.

The Holt amendment, therefore, places an intolerable and crippling burden on the Federal Government, which would be charged with enforcing our civil rights laws and then be denied the information which would enable it to do so.

I continue to oppose the use of busing as a tool to overcome inequalities in education. I believe it is highly inflammatory and that it has been largely counterproductive. Earlier this year, during the debate on the education bill, the Senate passed my amendment on equal education opportunities, which would have provided incentive grants to the States to encourage them to increase the level of financial support they give to some of our poorer school districts. I have subsequently reintroduced that measure as a separate bill, S. 3797. In my view, this is one way to get at the problem of inequality in education, and it would do so without the disruptive and divisive effects of busing, which have caused us to divert our attention from the quality of education and to direct it at costly and burdensome side issues.

Therefore, Mr. President, although I continue to oppose the specific remedy of busing, I support the Mansfield-Scott amendment, which will enable us to maintain the integrity of our civil rights laws. We may quarrel about how those laws should be enforced, but we must not take actions to weaken them.

Mr. TAFT. Mr. President, during consideration of this bill, I expressed my deep concern about two of the community development-related provisions. Specifically, I was concerned that the community development transitional fund had been slashed from \$50 to \$10 million, and that no additional funds would be appropriated for the section 312 inner city housing rehabilitation loan program even though the present appropriation is based on a \$20 to \$25 million HUD underestimate of the funding available.

I am gratified that the conferees did decide to restore the community development transitional fund. Even the \$50 million which now will be available is not likely to be enough for all the cities whose urgent needs cannot be met through the new community development fund distribution formula. To cut this amount further simply would not have been responsible legislating. It would have led to temporary discontinuation of various ongoing community programs, with the predictable result of program delays and higher costs for accomplishing the same goals over a longer period. It would have been particularly harsh on some of our large, problem-plagued cities most in need of viable community development programs, as well as small towns not receiving automatic program funding. The conferees' action will not eliminate all such problems, but it will reduce their incidence and magnitude.

On the other hand, I was extremely disappointed that my amendment to appropriate an additional \$25 million for the section 312 rehabilitation loan program was dropped by the conferees. The

House of Representatives originally included \$70 million in the HUD appropriations bill for this program. That funding provision was deleted later, based solely upon the Senate Appropriations Committee's understanding that carry-over and loan repayment funds for this fiscal year "will make possible a program level of up to nearly \$70 million without any additional appropriation," in the words of the committee report. Since that time, however, HUD has verified the fear I expressed during the debate on the HUD appropriations bill—that the amount of money available for this program was overestimated.

My floor amendment adopted by the Senate would have remedied this situation by providing the section 312 program level which Congress originally had intended, by deleting my amendment, the conferees have indicated their apparent indifference to and acquiescence with HUD's mistake in estimates.

The effect of this Congressional inaction is to reduce the funding level in the section 312 program to such an extent that it hardly can remain a separate program for fiscal 1975, as Congress had intended despite administration objections. That is extremely damaging in view of the program's positive past record, the justifiable emphasis we are currently placing on preserving existing housing, the crucial role it can play in the preservation of our cities, and the necessity to stimulate housing-related industries. This act of budget cutting is not anti-inflationary, because the funds would have stimulated an industry that is lamentably far from a demand-aggravated inflation situation. If anything, it will push housing costs up, because fewer acceptable housing units will be available.

I shall continue to try to remedy this error in our policy.

#### EXECUTIVE SESSION—NOMINATION OF NELSON A. ROCKEFELLER TO BE VICE PRESIDENT OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the hour of 2 o'clock having arrived, the Senate will now go into executive session to consider the nomination of Nelson A. Rockefeller to be Vice President of the United States, which the clerk will report.

The second assistant legislative clerk read the nomination of Nelson A. Rockefeller, of New York, to be Vice President of the United States.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate, to be equally divided between and controlled by the Senator from Kentucky (Mr. COOK) and the Senator from Nevada (Mr. CANNON), and the vote thereon will occur at 3 p.m.

Who yields time?

Mr. COOK. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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Mr. COOK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, will the Senator yield me 4 minutes?

Mr. COOK. I yield 4 minutes to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, in considering the nomination of Nelson Rockefeller to be Vice President of the United States, there are two major questions that ought to concern us. One is: What qualifications should be expected of the person who will stand "only a heartbeat away" from the Presidency? The other is: Does Nelson Rockefeller possess these qualifications?

Today, perhaps more than ever before in our history, America needs inspired leadership. We need leaders with outstanding competence, integrity, and dedication. We need leaders who can restore the confidence of American citizens in their Government. We need leaders with great practical experience, courage, imagination, and enthusiasm to focus on our problems in new ways and bring people together to find new solutions. Nelson Rockefeller is that kind of leader.

The Congress has a tremendous responsibility under the 25th amendment to the Constitution. It is a responsibility that must not be evaded or cast aside for narrow, partisan considerations. We have an obligation to the electorate, and to the Nation as a whole, to make sure that the person we confirm as Vice President is not only qualified to fill that office, but to assume the Presidency itself, if necessary.

There can be no question about it: Nelson Rockefeller is qualified. His record of public service spanning nearly four decades reflects a profound commitment to family and personal ideals of stewardship, civic responsibility, and the ethic of public service. Few men in public today can match his experience and outstanding achievements in the whole field of public affairs—in international relations and diplomacy, as an executive in State and local government, in the design and administration of innovative social programs, as a patron of the arts, and as an adviser to Presidents.

As few other men in our Nation, Nelson Rockefeller is uniquely qualified to be Vice President, and if necessary, President. Throughout the confirmation process, his competence has not been questioned. Some have questioned his judgment in certain incidents, and I cannot agree with every decision Nelson Rockefeller has made. But the confirmation process was prolonged not on the issues but on the fact that Nelson Rockefeller and his family possess immense wealth.

Regrettably, the Rockefeller fortune became the central focus of the confirmation hearings. In this regard, Nelson Rockefeller was totally candid. He revealed his holdings and his income tax records. He agreed to place his fortune in a blind trust. He was cooperative with the Committee on Rules and Administration in the Senate and the Judiciary Committee in the House. Nelson Rockefeller

has been subjected to closer scrutiny than any other candidate for Vice President or President.

The scrutiny has revealed an immensely wealthy man of extraordinary generosity. But neither wealth nor poverty should be bars to public office. His gifts to associates in Government were revealed to be perfectly legal. Yet it is a practice which the nominee has agreed to cease.

His family's participation in the book on Arthur Goldberg is regrettable, but I do not believe it is of sufficient gravity to deter the confirmation of Nelson Rockefeller.

I am convinced that these questions are far outweighed by the overwhelming evidence of the public life and service of Nelson Rockefeller. His career has been characterized from the first by the highest standards of competence, integrity, and dedication to the public welfare. He is an outstanding leader, capable of restoring the confidence of American citizens in their Government—confidence that seems to be eroding today. Governor Rockefeller has been a friend of mine for many years, and I speak from experience when I say that few men have greater integrity or higher ideals.

I am proud to vote to confirm the nomination of Nelson Rockefeller, and I urge my colleagues to do likewise.

The PRESIDING OFFICER (Mr. COTTON). Who yields time?

Mr. COOK. Mr. President, I yield 2 minutes to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, for the second time in little over a year this Congress must assume the awesome responsibility of confirming or rejecting a nomination to the office of the Vice Presidency of the United States.

Domestic problems and foreign uncertainties demand a complete executive, not the condition in which we now find ourselves—without a Vice President, without the use of a right arm. The time has come for the Congress to fill the Vice-Presidential void.

The magnitude of our decision is measured by the events which have transpired since the November 27, 1973, Senate confirmation of Gerald Ford to be Vice President. By virtue of the 25th amendment we are again entrusted with the power of election normally exercised by the people of this Nation. But these are not normal times, for we live in an urgent era of peril—a time that requires not off-hand experimentation but the sure grip of experience, a time that must be ruled by clarity and understanding, not by riddle and ambiguity, a time like no other that must be marked by decision and not division.

Nelson A. Rockefeller more than fulfills these demands—his life provides the very example which illustrates unflinching dedication. His experience serving our country spans nearly 40 years and crisscrosses the globe with missions under the direction of Presidents from Franklin Roosevelt on.

That which has been accomplished by Nelson Rockefeller are the deeds which might fill the careers of a dozen men. He is knowledgeable, in fact an expert, in Latin American affairs; he served as

chief executive of New York State, governed the well-being of millions of people, and shaped that great State's history forever; he has headed commissions and committees probing this Nation's problems in the search for answers. Unfortunately, Mr. President, some men have come to the Vice-Presidency bereft of this experience yet eager to advance a political career; plainly, Nelson Rockefeller comes to this office with knowledge at hand and a pledge to advance, not a career, but the interests of a country.

While the nomination of Nelson Rockefeller shall necessarily bypass the Nation's voting booths, the Governor has nonetheless been subjected to the crucible of congressional committee, and consequently his credentials have been closely scrutinized. More often than not the critics have been confounded, if not by answers which refute erroneous charges, then by honesty which, while admitting past error, establishes an openness and firmness of character needed today and essential for the tasks we face tomorrow.

If the Lasky book controversy incites criticism of Governor Rockefeller's lapse in attention to minute campaign details in 1970, the Governor's admission of misjudgment stresses the equally important, the essential, quality of candor.

Loans and gifts to private individuals and public servants do not necessarily translate into purses attached to strings ready to be pulled for favor. While there are questions, in the end this largesse indicates to my mind a generous, and yes, an admittedly wealthy spirit. But it is ironic that this dispersal of small portions of a vast fortune has developed into a liability, when it is obvious that the very reverse—greed and lust for money—was the ruination of one Vice President still very vivid in our memories.

The Rockefeller fortune extends beyond vaults and banking institutions; instead, Nelson Rockefeller's wealth of abilities is more important to the Nation. Abundant experience in both foreign relations and particularly domestic affairs is Mr. Rockefeller's talent which can become the Nation's good fortune.

Few men have approached the Vice Presidency with as much distinction as Nelson Rockefeller. Few men have respected the honest conduct of government and politics as Nelson Rockefeller. While he is a man uniquely gifted for the times in which we live, he is also a leader capable of changing those times for the better.

Nelson Rockefeller has been more than a witness to history; he has been a vital participant. His further participation as Vice President will shape this Nation's future for the better. While it shall be Governor Rockefeller's most important challenge, I wholeheartedly believe he shall discharge his duties with great verve and vigor. I shall vote for confirmation.

Mr. COOK. I thank the Senator from Oregon.

Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, it is said that even the weariest river winds somewhere safe to sea. So I hope that we are now approaching the sea of tran-